

THE
TRIALS AT LARGE

OF

ROBERT WATT,

AND

DAVID DOWNIE,

FOR

HIGH TREASON,

AT THE SESSION OF OYER AND TERMINER,

AT EDINBURGH,

August 27th, September 3d, and Sept. 5th, 1794.

AT WHICH THEY WERE

BOTH FOUND GUILTY,

AND SENTENCED TO BE

HANGED, DRAWN, AND QUARTERED,

On the 15th of October.

TAKEN IN SHORT HAND
BY AN ENGLISH BARRISTER.

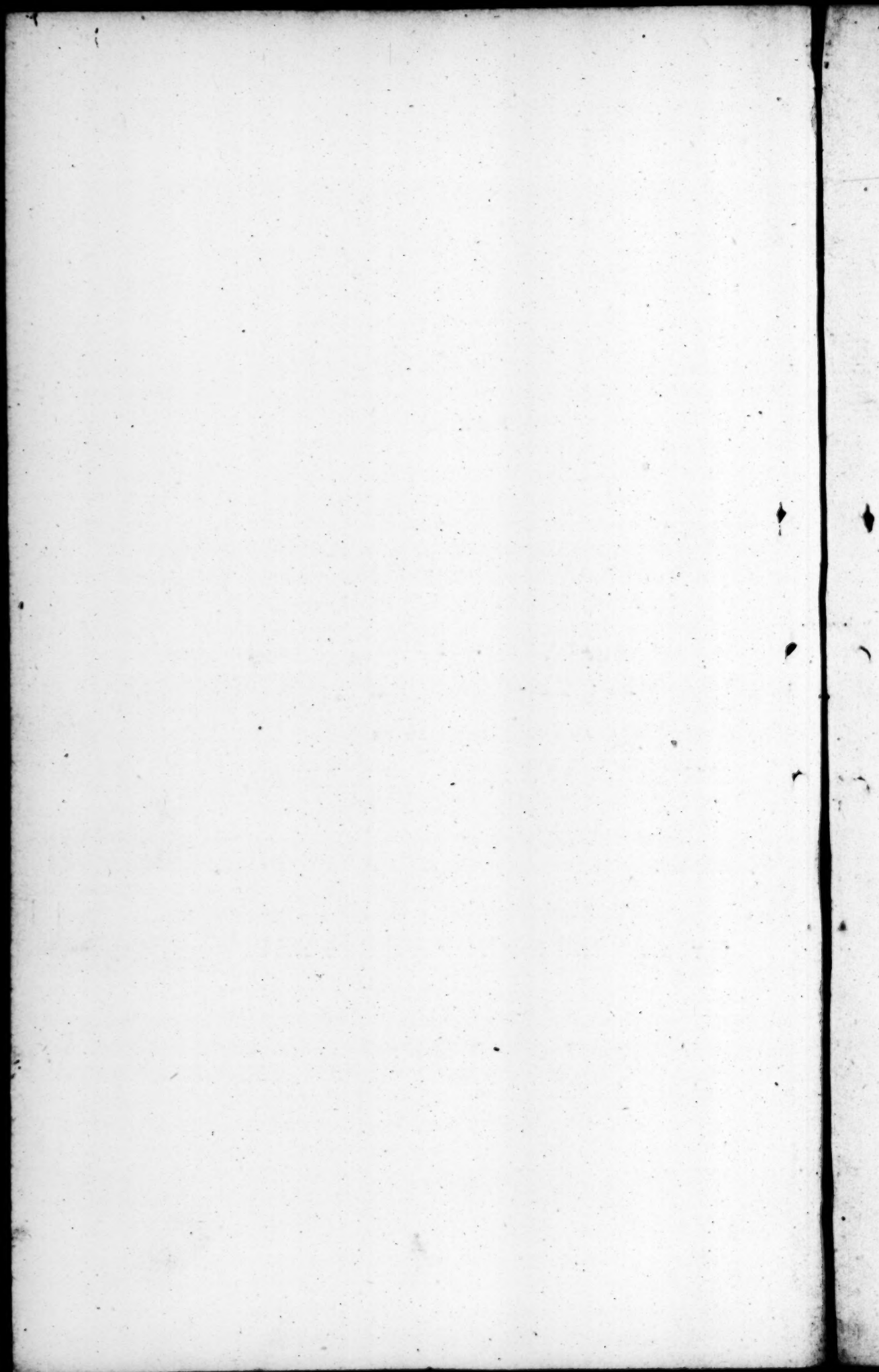
L O N D O N:

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TRIAL, &c.

AUGUST 27, 1794.

THIS day the Court met, when Robert Watt was put to the bar, in order to be arraigned.

Mr. Knapp, Clerk of Arraignment, called upon the prisoner by his name, and desired him to hold up his right hand, which he did. Mr. Knapp then read the bill of indictment which the Grand Jury had found against him to the following purport :

It charges the said Robert Watt not having the fear of God in his heart, nor weighing the duty of his allegiance, but being moved and seduced by the instigation of the devil, as a false traitor against the King, his supreme, lawful, and undoubted Sovereign, and wholly withdrawing the cordial love and due and true obedience, fidelity, and allegiance, which every true and faithful subject ought to bear towards him, and wickedly, maliciously, and traitorously devising, contriving, and intending to break and disturb

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the peace and tranquillity of the kingdom, and to change, subvert, and overthrow the Government happily established therein, and to usurp, assume, and take upon himself, together with other false traitors, the power of Government within the kingdom, and to excite, move, and raise rebellion against the King, within this kingdom, to depose and put down the King from the Royal state, title, power, and government of the kingdom, and him to death to put and bring. With having maliciously, wickedly, and traitorously met, consulted, conspired, and agreed to cause and procure meetings to be held within this kingdom, under the name of Conventions, for the purposes of usurping and assuming the powers and government of legislation, in, for, and over the kingdom, of effecting an alteration in the mode of electing Members of Parliament, or obliging the King against his will, to change certain laws relating to the administration of the kingdom, of raising an insurrection, of obliging the King to adopt certain laws which they wished, of consulting concerning the seizing upon the Castle of Edinburgh by force, with pikes, guns, battle-axes, &c. and also upon the Excise Office and Banks, of seizing upon the Lord Justice Clerk, Lords of Justiciary and Session, and Lord Provost of Edinburgh, of agreeing to be aiding in these conspiracies, and of instigating other persons to assist him in carrying the same into execution; of buying and procuring to be made,

made, divers pikes, spears, battle-axes, &c. for the above purposes, of raising and levying, and causing to be raised and levied, money for the purpose of arming himself and his associates with writing and publishing wicked addresses, advising the subjects of the King to subscribe money, employing John Fairley to distribute the same, and to persuade the people to give assurances to him of support, to inform of how many they might depend upon, to persuade the people to send money to David Downie, and to purchase pikes, &c. for the purpose of arming themselves, and with employing William Brown and Robert Orrock to make pikes, &c. and cause them to be made for the above purposes, and which when made were concealed in the house of the said Robert Watt.

After the indictment was read over, Mr. Knapp asked Mr. Watt what he had to say to it, and whether he was guilty or not guilty? To which the prisoner replied, Not guilty.

Mr. Knapp. How will you be tried?

Prisoner. By God and my country.

Mr. Knapp. God grant you a good deliverance.

Lord Justice Clerk asked the Counsel for the prisoner if he had any motion to make?

Mr. Archibald Fletcher said, that he wished Mr. Robert Cullen to be appointed senior Counsel to assist him in the defence of Mr. Downie, in place of Mr. John Clerk.

This the Court agreed to.

Mr. Robert Hamilton, Counsel for Mr. Watt, said, that as he observed a person of the name of Kennedy in the list of witnesses against his client, and as he understood he would be a very material witness for the prisoner, he wished to know from the Counsel for the Crown whether Kennedy was to be brought forward.

Mr. Anstruther, for the Crown, said, that every exertion had been used, both in England and Scotland to get hold of Kennedy, but hitherto without effect.

Mr. Hamilton then suggested the propriety of delaying the trial till Kennedy could be found; but this Mr. Anstruther opposed, assuring the Counsel for the prisoner, that if they would inform where Kennedy was, they should not be deprived of his evidence; for that if the King's Counsel knew where he was, Mr. Anstruther promised to have him brought forward,

Mr. Fletcher then suggested that it would be proper to have it fixed which of the prisoners should be first brought to trial.

The Lord Advocate said, Mr. Watt was the person first meant to be tried.

The Court then adjourned till Wednesday next.

SEPTEMBER 3.

Mr. Knapp, Clerk of Arraignment, proceeded to call the Jury, several of whom, in consequence of the peremptory challenge which the English law affords,

affords, the prisoner objected to; at last a jury of twelve citizens were sworn in and impannelled.

Mr. Knapp recapitulated to the Jury the heads of the indictment, particularizing the different overt-acts of treason of which the prisoner was accused.

Mr. Dundas then rose, and opened the pleadings, by addressing the Jury on the part of the prosecution. He said, that as the Clerk of Arraigns had read the substance of the indictment, it would be unnecessary for him to recapitulate it fully. He would only notice, that it stated the Defendant having held a private correspondence for the purpose of procuring and establishing a meeting called a Convention, under the pretence indeed of obtaining a Reform, but really for the purpose of usurping the powers of government, though they sometimes said it was to obtain a redress of their supposed grievances. The indictment also charges him with having assisted in procuring arms, which no doubt were to be employed against the government of the country; and finally, the prisoner has consulted on measures to overawe the legislature, and endanger the person of the King.

Mr. Anstruther said, It is my duty to lay before you the state of the charge which the Council for the Crown now bring against the prisoner at the bar—He remarked, that such had been the peace, the happiness, and the prosperity of this country, and the Constitution under which we live,

live, that the law of treason lives only in our remembrance; nor have we seen an instance of its exercise for half a century. He said, he would shortly state what that law is, and what are the crimes which constitute a breach of it.

I profess not, said he, to possess those powers of oratory, for which some are so famed, but, if I did, I should abstain from exercising them on the present occasion; for, I know I should ill perform that duty I owe to my sovereign, whom I serve, if I attempted to inflame your passions, or mislead your judgment, against the person now at the bar. I shall, therefore, give you a plain simple statement.

Mr. Anstruther then stated, that at the time of the Union of England and Scotland, it was judged proper that the law of treason should be the same in both countries; for as it was then brought about that we should have one Sovereign, to whom we owed the same allegiance and duties, it was therefore determined, that in this respect we should have the same law; and, gentlemen, give me leave to remind you, it was a beneficent act that extended the English law of treason to this country, for that existing here before that period was infinitely more severe. The law of treason lies in little compass, and it has existed in England since Edward III. and was reduced to a certainty, which has little varied since that period.

It states three species of treason; compassing
and

and imagining the death of the King; levying war against him; and adhering to his enemies; and whoever is guilty of these is guilty of treason.

The offence charged is compassing and imagining the death of the King. The act charges not the offence done, but the intention of the person, viz. that of compassing the death of the King. The law has been careful, because the law knows the danger of allowing such intention to be carried into effect; but while the law is thus scrupulous in preserving the life of the King, it is equally careful in preserving the life of the subject; and though it says compassing and imagining, yet it is not upon loose grounds, for the act of Edward specifies the manner to be by open deed.

An overt-act is the mean used to effectuate the purpose of mind; but though you have thus heard of compassing and imagining the death of the King, you are not to suppose I must state a direct act of attempting to poison or destroy the King. I must prove to you the means which the person has used to obtain his end; but, as I wish you to take no construction of mine, therefore I will lay before you the opinion of the most celebrated Judges upon the law of treason. Here Mr. Anstruther stated a variety of law authorities. One author, he observed, says the law is not confined to direct attacks on his life, but to the means whereby the life of the Sovereign may be endangered: that, therefore, entering into measures to

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get his person into custody are overt-acts, because they are means whereby his life may be endangered. If I can bring any thing, by which the King's person and life were endangered, I call that high treason. Lord Chief Justice Hale says, if the conspiracy be what must induce it, that is compassing the death of the King. So, if a conspiracy is proved against the prisoner, which would have endangered the life of the King, that is what this Judge defines high treason.

If I make out a charge against the prisoner, that he intended levying war against the King, to force him to do a particular thing, that is compassing the death of the King; for, as a learned Judge says, he that fights against the King, must know that it puts his person in danger: or, if I show a design, which cannot be carried without evident danger to the King, it will be your duty to find the crime of treason. If a conspiracy be formed to levy war against the three estates of the kingdom, how can that be carried on without endangering the life of his Majesty?—It is an overt-act of treason wherever the design cannot be carried into effect without apparent danger to the King. Justice Hale says, a conspiracy to levy war against the King, however disguised under pretence of rectifying abuses, casting down inclosures, &c. must be compassing the death of the King, for, it is said, he that endeavours to conquer the King, cannot intend less than taking away his life.

Now, Gentlemen, I have no scruple to say,
that

that the King's Council will prove that the prisoner had entered into a conspiracy to conquer the King, by levying war, to force him to redress supposed grievances; and meetings to consult about overawing the King, and levying war, is an overt-act of high treason. I will lay before you the means used by the prisoner to accomplish his end; and if I prove it a conspiracy against the King, it is high treason.

In a case brought before Justice Coke, it was said there was no war levied, and therefore the conspiracy to levy war was not high treason. If there be a design to restrain his Majesty by a consultation to levy war, then it is high treason. In the reign of George I. in the case of Lair, it was agreed, that a conspiracy to levy war was not high treason; but the Judge said, the law is, that a consultation to levy war against the King is an overt-act of high treason.

A conspiracy to levy war has many times been indicted as an overt-act of high treason. Here Mr. Anstruther stated a case of a conspiracy, and of the publishing a paper proposing to seize the Tower of London and his Majesty's Ministers, which was considered as high treason, although compassing the death of the King was not mentioned in the indictment.

The fact I mean now to try, after having thus stated the law, is such a conspiracy or design upon the part of the prisoner, as might have put the King's life in danger. This is not a small con-

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spiracy of a few individuals in an obscure corner, but it is a conspiracy arisen from small beginnings, under the appearance of seeking legal measures, urged on by persons circulating seditious papers, and by seditious societies here and elsewhere, and agreeing to a design to be carried into execution, which would have deluged this country with blood. Such is the conspiracy charged against the prisoner.

You know, Gentlemen, there have been various societies who assumed to themselves the names of "Friends of the People." Their first pretended object was Reform by Petition; but whether they wished to obtain their cause or be denied I know not; but their petition, however, did not meet success. Soon after, a new scheme took place, and the first beginning of their plan will be found in a letter sent to this country by Hardy, secretary to a London society, where he says, "our petition has been rejected; our minds therefore must be turned to some other plan and more effectual means." To this Skirving returned an answer, and pointed out his plan, in which he foretells the downfall of Government. Then they turned their eyes towards a Convention; and no wonder they did so, as they had seen the effects of a Convention in another country. A variety of letters point out distinctly that this Convention was not to petition Parliament, but to act by their own authority. Now if I can prove that the design was to supersede and annul the Government

vernment of this country, and controul all its powers, I will certainly make out a case of high treason.

Soon after this a body met at Edinburgh, who were afterwards joined by delegates from England, and took the title of British Convention. If you think their views were pure and constitutional, there is no harm; but if otherwise, that their intentions were illegal, and to carry their plans by force, then it is neither more nor less than a plan to supersede the Government and Legislature of this country, and set aside the King. One part of the instructions by the Corresponding Society in London to Margarot were to resist the Legislature of the country in case they should do a particular act, viz. to stop certain meetings of the people. This then is clearly a conspiracy to resist King, Lords, and Commons.

This society was divided into sections and divisions, and took the cant names which are used in the Convention of France. It may be said, what harm in using French phrases? This may abstractedly be true, but you, Gentlemen, are to judge of the plans and views of men by all that you see them do. Various motions were made and discussed in this Convention; some for petitioning for Reform, &c. but from the moment they assumed the name of the British Convention, all idea of petitioning Parliament was laid aside; and when it was even mentioned they passed to the order of the day, which was setting

aside the question altogether, and therefore I cannot but infer that some other mode was intended: And indeed they soon after agreed to certain resolutions, too bold even for this society to publish. Among others they resolved to pay no attention to any Act of Parliament which they thought should militate against the people, and continue to meet and resist till compelled by superior force to desist. Every delegate was instructed, on his return home, to explain to his constituents the necessity of electing a delegate, and establishing a fund for another Convention in cases of emergency. Now I will shew you the prisoner agreeing to this resolution, and endeavouring to carry it into effect. This Convention was indeed dispersed by the Chief Magistrate of this city, a gentleman whose honourable, upright, and steady conduct, has justly obtained for him the approbation of all good men; but soon after a proposal was again made for calling another Convention in England. The first meeting for calling this Convention was held at the Globe Tavern, London, where it was resolved, to call a convention to rule for themselves, and to have no connection with Parliament; for say they, they must have a convention to obtain redress from these plunderers and oppressors. And who were those oppressors but the estates of the kingdom—King, Lords, and Commons, whom they thus meant to supersede in all their functions?

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Their next meeting was held at the Chalk Farm, where they came to fundry resolutions; among others they declare, that certain acts of Parliament they will not obey, nor submit to.—These resolutions clearly demonstrate, that they meant to supersede the Senators of the nation, whom they call the packed Representatives of the People in Parliament, and take the government upon themselves. If you shall be of opinion that they meant to do so, you cannot doubt but their object was to destroy completely the Constitution of this Country. I may be told what is all this to the prisoner; but it is necessary I should shew you, first, that there was such a plan, and then shew, that the prisoner, was concerned; and his concern in this affair astonishes me the more, because about two years ago, the prisoner pretended to be a zealous friend to Government, and had some communication with an illustrious character, who filled the office of Secretary of State.—To that respectable character he then wrote, saying, he would be happy to give information respecting the Societies of the Friends of the People, and any other communications that might be serviceable to Government. To this letter, an answer was returned, stating that such information as should be useful to Government, would be thankfully received. After this, he had some correspondence with my learned friend, the Lord Advocate, who being subpoenaed by the prisoner, will, when called upon, give a proper

a proper account of what transactions took place. The correspondence, I believe, continued down to the middle of last year. Some applications were made by the prisoner to my learned friend; what were the nature of these applications I will leave with his lordship to say when he is called on.—Prior to the ceasing of this correspondence, however, the prisoner had refused to become a member of one of these societies, and certainly was not a member of the British Convention; and unless I prove that he acceded to another Convention, and couple him with a conspiracy in this country, he must be acquitted of that part of the charge.

But, gentlemen, you know it is not necessary that I prove every act charged, if I prove one act it is sufficient. If I prove he took certain means to effect the purpose of his mind, I then prove the conclusion of treason against him.—After the dispersion of the British Convention, several members formed themselves into Committee for the purpose of carrying on the very views of that meeting. Of this committee, the prisoner was a member, and one of its purposes was to select delegates to another convention in England.

This convention had also for its object to meet till opposed by force, and to collect a fund for supplying delegates. The prisoner moved for a committee of Union to collect the sense of the People, and convene another British Convention.

He

He may indeed state, that he had a peaceable meeting in view; but I shall shew by evidence that such could not be his object; because he acceded to the resolution of opposing force, and to meet till dispersed by force, and to call another convention, such as I have described a treacherous meeting, to overturn the Government. This convention seems to have taken great care of its members; its second resolution says, the “*will of the constituent is the constituent, therefore, if the representative is attacked, it is the duty of the constituent to defend him by nature, reason, and honour.*”

There was another Committee formed, of which Watt was also a member, called the Committee of *Ways and Means*. This was a secret committee; they kept no book, and committed nothing to writing. It was to transact all the money matters of the Friends of the People, and collect funds for what they called the *Great Cause*. This Society was also to correspond with the Societies, who are to inform their committee what number of patriots they could depend upon, and such as would spare no pains in promoting the *Great Cause*. This committee consisted of five persons only, to whom all the societies were to intrust their money, and every concern. Upon one occasion, this committee met to answer Hardy's letter, when Watt was present; and thus I couple him both with the first British Convention and the one to be called.

The next act of this committee was an attempt

tempt to seduce the Fencibles in this kingdom, and excite commotion among the soldiers. To effectuate this, they circulated among the soldiers lying at Dalkéith, a printed bill of a most wicked tendency. The types of this bill were found in Watt's house, and I will trace copies of it from his hands to the person who actually distributed them.

But here comes another plan which Watt proposed and read in the committee: In the night time a fire was to be lighted at the Excise Office, to attack the soldiers from the castle, and when they were to march down the street to aid in extinguishing it, then were the Friends of the People to attack and massacre them with those deadly instruments. This done, the castle was to be taken possession of, together with the Banks and all Public Offices—The Judges and Magistrates were then to be seized and imprisoned; and when all this was accomplished, a proclamation was to be issued, ordering all farmers to bring their grain immediately to market, and ordering that no country gentleman should go three miles from home, all under the penalty of death. This was to be followed by an Address to his Majesty, *ordering* him to dismiss his Ministers, and dissolve the Parliament.

Now, gentlemen, all this I will clearly prove; and if I do, surely there can remain no doubt that the plan of this prisoner was to overthrow the Government, and put the King's life in danger.

ger. I need scarcely add, that before this, the Friends of the People were to be all armed.— These facts he had found it incumbent on him to state; but at the same time, he requested the Jurymen not to allow his observation to sway their judgment, but throw them out of their recollection till they were substantiated by the evidence now to be adduced.

EVIDENCE FOR THE CROWN.

Edward Lauzon, King's Messenger, deposed, that he knew Mr. Hardy, Secretary to the London Corresponding Society, and seized some papers in his house in London.

Mr. Hamilton stated, that he understood it to be law, that no proof can be adduced to any extraneous matter not in the indictment till such time as an overt-act can be established.

Mr. Anstruther answered, that before he could prove Mr. Watt to be accessory to a conspiracy, he must prove that such a conspiracy did exist, and then he would shew that Watt was concerned.

Mr. Hamilton said, a plot in England is not the same charge with a plot in Scotland, which Mr. Watt is charged to have been concerned with.

Mr. Anstruther replied, it is stated a plot did exist, and I will prove, perhaps by evidence from England, that a plot in which Watt was con-

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cerned

cerned, existed in Scotland. (The objection was over-ruled by the Court.)

This witness then said, he found some papers in Hardy's house, among which was a letter signed *William Skirving*, dated 25th May, 1793—another dated 10th June, 1792; also a printed letter, signed *T. Hardy*.

Mr. Scott, Procurator-fiscal, stated, that Mr. Skirving and others of the British Convention, were apprehended on 4th December, 1793; and several papers were found in Skirving's house. Here the witness identified several papers, some of which were addressed to Margarot, Gerald, and Skirving;—also, instructions from the London Corresponding Society for Constitutional Information;—several letters from Hardy, &c.—Instructions for Citizen Gerald, Oct. 24, 1793. Mr. Scot then stated the circumstances respecting Margarot and Gerald being apprehended and the papers found on them.

He next mentioned his having been present when the Convention was dispersed at the Cross-causeway, in December last. He specified a letter of Skirving's hand-writing, dated in May, 1793, addressed to Thomas Hardy, London. It acknowledged a former letter which he says would be laid before the society. It says, "I know no more service I can do to my country than promote the union you so much desire. We are the people themselves, and the people can both act and speak for themselves. When the tabernacles of anarchy and aristocracy are broken

broken down, then will we, without fear, erect our fabric of freedom. If you go no farther than meeting in separate towns, you will do no more than shew yourselves the tool of a faction." A variety of other circumstances are noticed.

John Taylor, Fleet-street, London, said he was a member of the London Corresponding Society, and knows T. Hardy the Secretary, and knows his hand-writing, which he now sees upon a paper entitled, *Certificate of Gerald's Election*. Several other letters were also shewn, which he said were Hardy's writing. He said, the London Corresponding Society was a large body divided into divisions, amounting to fourteen. A general committee met on Thursday. A committee of emergency was formed in May last. A general meeting was held in January last, about a thousand persons present; so great was the crowd that the floor gave way. One Martin was Chairman. Resolutions were agreed to, and afterwards printed. One Speaker proposed, that the permanent Committee should meet every day, and distribute hand-bills; and, in case the Habeas Corpus Act should be repealed, the Society should repel force by force. He received a copy of the Resolutions of the Meeting from a person named "Moore," and now sees it on the table.

He remembers a meeting at Chalk Farm, two miles from London, where there were about two

thousand people. A person named "Love," was in the chair. Some resolutions were read. They were put separately, and all carried, and printed. He received one from T. Hardy in May, at a meeting of the second division of the London Corresponding Society. The witness stated a variation in the copy of the Resolutions. The one says, the conduct of the Ministry brought Charles I. to the scaffold, and expelled the Stuart family from the throne ; therefore, resolved, *That the present Ministry were guilty of High Treason.* The expression in the other is, "Therefore Ministers ought to consider whether they are not guilty of High Treason." An hundred thousand of the resolutions at the Globe Tavern were printed, and two hundred thousand of those at Chalk Farm were ordered to be printed. Depones, he has heard of military divisions, and once saw a young man named "Oxley," who had a stick of a particular construction, fitted to allow an instrument to be screwed on the end ; and, when he produced it, he said he had formerly belonged to the military in London, and still meant to continue in that line. And he knew where others such as this could be found, but was bound not to divulge it.

Cross-examined—He said he took memorandums for his own information, because, being seduced to be a member at first, imagining their object was Reform, and afterwards discovering it to be very different, he thought these notes might

might be of use in case he should be called on, which he afterwards was, being sent for to the Secretary of State's office.

Edward Gattard, clerk to Mr. Wickham, magistrate in London, attended one of the divisions of the London Corresponding Society, where, by a conversation in April, he understood a convention was to be formed, and the people were to arm to defend the convention, as the citizens in Paris protect the convention there.

Cross-examined. He said, he became a member of these societies in consequence of some curious language he heard at the meeting at Chalk Farm, where he was by invitation from one of the members.

Alexander Atchinson, late goldsmith, deposed, that he was a member of the British Convention, and Assistant Secretary to Mr. Skirving, and wrote a considerable part of the minutes, which he now knows; and has seen the same papers before in the Court of Justiciary: that several persons gave him assistance in writing the minutes, among others, George Ross. He recollects a motion by Mr. Callander, which caused some observation, and was referred to a committee. Mr. Sinclair moved an amendment, in which the Convention declare, before God and the world, that they will imitate the wholesome example of former times, by opposing any step that shall militate against the people, &c.

[Here the witness read part of the minutes,
which

which concluded with these words, "Here the Members stood up, and solemnly passed the following motion."

Deponed, That he knows Mr. Watt, and that in January last he was appointed a member of the Committee of Union: That the Convention was dispersed in December, and the committee was formed in January. The committee was to preserve union among the Friends of Reform. The Friends of the People met occasionally to keep up a correspondence about the plan of Reform proposed by Mr. Pitt and the Duke of Richmond; and that Mr. Watt was a Member, and he himself was a member of the Committee of Emergence for the purpose of paying debts; and has heard it said, it was for the purpose of paying the expences of delegates for a convention to be held in England. This convention was for the same purposes and objects as the former. Mr. Bonthorn was a member of the British Convention. The purposes the convention had in view were the same which Mr. Pitt and the Duke of Richmond had in view twelve years ago. Deponed, that he has heard out of doors something of arms, but cannot name any person who said so: that he has seen a pike in George Ross's; that he saw two in the possession of a blacksmith; that the Committee of Union met in Ross's. Depones, that he has heard of arming the people, but cannot say particularly by whom he heard it.

He

He thinks it was about the time when Earl Stanhope delivered his speech about introducing foreign troops. Some said they would as readily arm against the French as against other foreigners; others said they ought to arm in defence of liberty; but cannot say who were the persons that said so. There were, perhaps, five or six present when the conversation took place; it was the common talk of the day. He cannot say what the particular conversation was which he had with Mr. Watt the night the sub-committee was appointed in January, and cannot recollect any conversation in the committee—that he had been in Mr. Watt's house, but cannot recollect the precise conversation.

Court. Did any conversation pass between you and the prisoner about arms?—Ans. Never. He only said that something of importance was on the carpet, which would come before the public or the world. This was about the time of Lord Stanhope's speech concerning arming the people.

Court. What were your reasons for absenting from the committee of Way and Means?—Ans. Because I heard that some secret business was to come before the committee, but cannot say from whom I learned this.

Court. How did you learn this?—Wit. I took it for granted it was so.

Court. Did you never give a different account of your conversation with Watt than what you
now

now do?—Wit: I never did, or if I did, it certainly was not true.

Mr. Erskine said, he did not think it competent by the law of Scotland to question a witness upon that subject.

Mr. Anstruther, stated the law of England to be otherwise.

The Lord President said, the law of Scotland was certainly as Mr. Erskine had stated, but with respect to England he apprehended it was different, and hinted to Mr. Anstruther that it would be better to avoid that in future.

Mr. Anstruther said, he would take the hint, and would not have done it in this case, had not the witness acted in the very extraordinary manner he had done ; but he would now request the jury to lay his evidence out of their view.

George Ross, late of the Gazetteer Office, deposes, That he knows the prisoner, and has seen him in his own house about the end of the last or beginning of the present year. There was a committee, which began to meet in his house about the above period; Downie, Mac Ewen, Orrock, and Watt, were of that committee, which, he thinks, was called the Committee of Union. They went into a private apartment. There were two committees ; a smaller one met at one time, and a larger at another. They met once a week, and continued till Downie and Watt were apprehended, and at that time the witness left Edinburgh.

One

One Bonthorn, a teacher, attended, and Mr. Stoke was once or twice there. After the convention was dispersed, two societies continued to meet; one in Symon's-square, the other in his house. In Symon's-square, about 70 people met. Deponies, That he does not know Mr. Hardy; but once wrote to him: That he received from Mr. Hardy some printed papers, signed T. Hardy, which Mr. Stoke brought to him. These were sent to different persons belonging to the societies in the country, viz. in Perth, Paisley, Strathaven, Dundee, &c. The one sent to Perth was directed to Walter Miller; the one to Strathaven to John Wilton.

Alexander Mitchell, manufacturer in Strathaven, being shewn a letter; acknowledged he wrote it in answer to a printed letter signed Hardy, sent him regarding a convention. In consequence of that letter, a meeting of the society was held; and a delegate chosen to the convention. His letter was directed to T. Hardy, London, and announced that a delegate was chosen:

William Lockhart, sheriff's chamber, said, he went to search the house of Mr. Watt for some goods, which were secreted, belonging to a bankrupt. In the search he found some pikes. He made a second search the same week, May 15, and found some more in a closet. The witness produced the pikes, and put two of them on a shelf which was also found in the prisoner's house and carried to the sheriff's chamber. The

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witness

witness also found the types of a hand-bill, which he likewise carried to the sheriff's chamber.

William Middleton, sheriff's officer, on 15th May last, searched the house of Orrock, smith, at Dean, and also searched Mr. Watt's where he found some pikes, and some types set up. In Mr. Orrock's house he found 33 pikes, some finished, and some not.—Here the witness shewed the pikes, and deponed, that they were found in the smithy.

James Walker, in the sheriff clerk's office, depones, that he saw a form of types in the sheriff clerk's office in May last: saw an impression taken off them at Campbell Denovan's printing office; and being shown a copy, depones, that it is the same impression.

Mr. Sheriff Clark said, That upon the 15th May, Mr. Lockhart brought a pike to his office. A warrant was then granted to search Watt's house, and he, the witness, went there; where in an upper room he found in a closet a form of types, two lines of which he could read; the one Dundee, April 12 1794, the other, for other purposes you were enlisted.

James Somervell, printer, said he took off an impression from a form of types which he got from the sheriff in May last, and identified a copy of it.

William Watson, Dalkeith, said, he thinks he once saw the pannel in his own house, which is farther

farther down the street than the North Bridge ; that Mr. Downie sent him there. It was about the beginning of summer. Recollects a fencible regiment at Dalkeith, and it was about the time he saw Watt and Downie. He was then standing in Ritchie's shop door when Downie passed ; and, having heard of a hand bill about the fencibles, he asked Downie for one, who said, if he would follow him, he would gratify his curiosity. He then took the witness to Watt's house, where he remained a few minutes, and Downie said he could not get them there. He then went to a Mr. Kennedy's, who gave him some of these bills. Mr. Downie desired him to throw the parcel on the floor, and, if any body asked him where he got it, he might say he found it. He did so, and took it up again ; and, having carried it home, gave these bills to some of his acquaintances, one of them named " Johnston." The witness was a member of the convention, and secretary to the Society of the Friends of the People at Dalkeith.

William Johnston deponed, that he got a paper from William Watson about the fencibles. It was dated Dundee.

James Sandilands depones, that he got a paper from William Johnston, and immediately gave it to Serjeant Hardy, of the Earl of Hopetown's fencibles.

Serjeant Hardy deponed, that he got from James Sandilands a seditious paper regarding the

fencibles; this was on Saturday 10th of May last; the regiment was then going to Liverpool and Whitehaven.—(Here the witness identified the paper.)

Arthur M'Ewan, Water of Leith, bred a weaver, deponed, that he was a member of a Society of Friends of the People there; was as delegate to the convention when they were dispersed; after the dispersion the society at Water of Leith continued to meet; That he was afterwards at a meeting of the Committee of Union at George Ross's.—They were more than twenty members present. They formed another Committee, called the Committee of Ways and Means, of which he was a member. The purpose of this meeting was to consider on a letter from Mr. Skirving, which said, as the convention owed him money he expected they would pay it, and take care of his wife and children. The members were Watt, Stoke, Downie, Bonthorn, and himself.

At the second meeting, Watt, Downie, Stoke, Bonthorn, and self were present. At the third meeting, Watt, Downie, Bonthorn, Stoke, and self were present.

Quest. At this meeting was any proposal made for seizing the government?—Ans. Mr. Watt read a paper for seizing on Lord Justice Clerk, the Lords of Session, and the Lord Provost. A fire was to be lighted at the Excise, and when the soldiers were coming down, the people were to fall

fall on them, and to feize the banks. Thinks this was to be in the night time. There were to be commissioners to demand the cash of the banks. Thinks, that Watt afterwards put the paper containing this plan into a press. In Watt's own room he read a paper or proclamation to this effect, "desiring all farmers not to remove their grain under pain of death, and all gentlemen not to go three miles from their houses." This was to be issued immediately after the above mentioned attack.

On the other side of the same paper was an address to the King to dismiss his Minister, dissolve the Parliament, put an end to the war, or he might abide by the consequences: That Watt ordered him, to accompany him to Orrock, when he desired Orrock to make pikes, of which Orrock drew a model; That Watt ordered him to be busy, as he had 4000 to send to Perth, besides what was needed for Edinburgh, and so soon as they were made, he would get his money. The witness saw Orrock's servant making one, and a lad came in, who asked him what was their use? He answered, an invention mounting for a gentleman's gates: That he has seen John Fairley at the committee, and he was told he had been sent to the west, and the prisoner was present when Fairley told he had visited many places, of which Watt took a note.

Fairley said, Paisly was in a state of great
re-

readiness. The witness said, when the paper was read, he would by no means agree to any thing that would shed the blood of his countrymen: that he heard another letter read in the committee of ways and means; has heard of some persons called collectors in the committee of union. The society of Water of Leith gave 15s. to provide for Mr. Skirving's family, to be at the disposal of this committee, and 15l. from Perth.—[Here the witness identified the paper produced by Watt.]

William Bonthorn deponed, that he was a member of the sub-committee, or committee of ways and means, but withdrew from them altogether about the 17th of April. Watt attended that committee and the committee of union—agreed with the preceding witness M'Ewan, as to the members of the committee of ways and means.

Court. What made you withdraw from the committee?—Wit. Different things that at present I can't say. Being farther interrogated, said, he wished the Court to ask him no questions, for he remembered nothing at all of the matter; there was such a confusion that it cut off his whole recollection. On being told he was criminal in concealing the truth, he deponed, That he never heard Watt propose a plan, but heard him read a paper.

Court. What was the purport or substance of that paper?—Wit. It went on such suppositions that I looked upon the whole as a kind of frenzy.

It

It contained something about seizing the Castle, but I don't recollect any thing at all about it. Being interrogated, What the paper said of that matter? Deponed, That a number of people were to seize on the Castle, while the soldiers were decoyed down by a fire kindled about the Register Office, and likewise to seize on the Banks and Excise Office.

Court. Were there no persons to be seized?—

Wit. Don't recollect of any person mentioned to be seized. Taking possession of the town guard was also mentioned in the paper.

Court. Who was to do this?—Wit. The people, if so many could be collected. The paper upon the whole alarmed him much.

Court. What did you say on hearing it read?

—Wit. Arthur M'Ewan opposed the plan, and I agreed with him.

Court. What was the business of the sub-committee?—Wit. To transact the business of the society.

Court. Do you remember the circular letter printed by the committee?—Wit. I saw the letter in manuscript at the committee which met in George Ross's, it was wrote by Mr. Stoke; the other paper was not read then, but in Watt's house. Does not recollect the particulars. Watt took it from his pocket, and, after reading it, put it into a press in the room. M'Ewan and he went home after the committee dismissed.

Court. Did you take any step after that, to
shew

knew that you disliked the proceedings? Depones, that the reading of the paper alarmed him so, that he resolved to quit the meeting altogether, and wrote an advertisement for the Advertiser to that purport, which was the substance of that on the table. It was not sent, as at that time John Fairley called on the witness, and said he was to take a jaunt to the West Country, and wanted him to give some shillings, for which he would account. The witness told him, he had none, but wrote a line to Mr. Watt, and he gave him the money.

Court. Where was Fairley going?—Wit. To Falkirk, to see his sister; but said he had a commission from Watt.

Court. Did you see him after his return?—Wit. Yes, one morning by accident; he did not say where he had been, nor whom he saw. Depones, That he heard of a printed letter which Hardy sent, but knows nothing of the contents; an answer was sent to Hardy's letter, but does not know the contents; it was wrote by Stoke, and was to be carried by himself, he being going to London in a few days by sea.—Saw a paper about the Fencibles, wrote by Stoke; and Watt was present.

John Fairley, Wright, said he was a member of the British Convention; and was chosen by a society to be a collector. They collected money and sentiments, because there was a number of people warmly attached to the cause, who could

not

not give their attendance, but gave money, while others gave only their opinion. This was sometimes called a Committee of Ways and Means, where he was sometimes present with Watt. He heard there were some pikes got ready, and was not long acquainted with Watt when he shewed him some. They had once spoke about pikes before, and he (the witness) had a drawing of one made out, which he shewed Watt, who told him the pikes were intended for self-defence, and no person was to get them but those who wanted and paid for them.

Crown. Did you ever say any thing about your fear of bloodshed?—Wit. I was expressing my fears that the measures of government would drive the people to despair, and Mr. Watt answered there would be no bloodshed, for those who were most active against the cause of the people would be imprisoned. He recollects Mr. Watt speaking of soldiers, on which the witness said, that if affairs came to extremities, he had no fear of the soldiers, for he would just speak to them, and they would be as glad of freedom as we can be.

Court. What do you mean by freedom, you say the soldiers would be glad of it?—Wit. I mean annual election and universal suffrage.

The witness then said it was once mentioned, that after seizing the obnoxious people here, couriers were to be sent to the country, to announce what was done. That Mr. Watt once told him he would give him some of the arms to show the

collectors, upon which he made some objections ; and Mr. Watt replied there could certainly be no objection to a merchant selling goods in his shop. That Mr. Watt shewed him pikes in his own house, which he wished him to carry and shew the collectors.

Crown. Why did you not carry them ?—Wit. Because none of the collectors ever asked for them.

Crown. Was it not your reason that you thought it dangerous to do so ?—Wit. I thought no harm of it myself, but other people might think so, because I was distributing them ; and the collectors might have thought I wished to urge them upon them before they were asked. One day I proposed going to Boness, when Bonthorn asked me to carry a letter. Next morning I called on Mr. Watt, and he desired me to call at Mr. Campbell's, hatter, and get a parcel, which I did. It contained papers. Mr. Watt said, I would know what to do with it. I went to different places, viz. Glasgow, Paisley, Kirkintilloch, Killivth, Stirling, &c. and had two papers of instructions ; the one to desire the society to send Mr. Downie their money, and also to distribute papers ; the other to ask what number of patriots there were in the place. I then went to Stirling, and delivered a copy of these papers to all the people I called on, viz. Dr. Forrest, in his own house, where were several others. Had no direction to Dr. Forrest, but having heard of him, called to ask how the society was flourishing there.

Thinks

Thinks the name of one in Forrest's house was Thompson ; they all remained about two hours. I told them the news in Edinburgh, about what I have already mentioned ; and drew a plan of a pike on Forrest's table.—Then left Stirling, and went to Mr. M'Cross, a relief Minister at St. Ninan's. Then went to Kirkintilloch, and called on Mr. Anderson—next to Paisley, on Mr. Hastie, a member of the Convention. Then came to Edinburgh, and went to the committee of Union, where were M'Ewan, Downie, and Watt, to whom I told what I had done, and returned the written instructions formerly received, to Mr. Watt, as also a list of the towns and places, and of the people where I had been.—Had also a paper on my journey, authorising me to call at the societies. There were seals at this commission—no names ; but it was said it came from the committee of ways and means. This was also returned to Mr. Watt. I received a line from Mr. Bonthorn to Mr. Watt, who gave me a line to Mr. Downie, from whom I received 30s. to defray the expences of the journey.

He was now shown a list of his own writing, and desired to read it. It run thus : S—g, support by money ; C—ge not great. S—pp—t, as yet uncertain.

Crown: Why did you keep these words blank ? —Wit. I did not like to write them in this list. (Here the witness was desired to explain them, and with much seeming difficulty at length read

them thus : Stirling—support by money—Courage not great—Support as yet uncertain.)

After this the witness said, that he shewed his commission and instructions to Dr. Forrest, and at all places he called at. Thinks the instructions spoke something of a plan or grand plan.

Crown. What was that plan?—Wit. It might be what Mr. Watt was telling me. It spoke something about a committee of secrecy.

Crown. Did it tell any thing about being free?—Wit. Aye, yes, I think it mentioned it, saying something about that. It said about Britons being free.

Crown. What was to make Britons free?—A. It just said something about free; it might mean the grand plan. The committee of secrecy was to correspond with Downie, and I went to the country to tell the societies to correspond with him.

Dr. Forrest, Stirling. A person named Fairley, called on me in May last, telling me he was desired to inquire in what situation the society was. He gave me three copies of printed bills and a letter, and shewed a paper, in which money was requested for Mr. Skirving. It spoke about some collectors, or persons to be provided with——

Crown. What was the construction put on blank?—Wit. I supposed it should be filled up—“arms.”

Ques. What did you say to Fairley?—Ans. I told him we did not wish to injure any one, and he should be cautious what he did.

Ques.

Ques. Did Fairley say any thing of arms manufacturing in Edinburgh?—Ans. He was talking about an invasion, and then made a draught of a halbert, and said, he knew a person who could furnish such instruments, who, I understood, resided in Edinburgh.

Ques. When the company supped, what was Fairley's conversation? Did he say any thing of a rising of the people?—Ans. He did say something about it; but whether as a thing settled, or what might be done, is uncertain. Some conversation took place of a plan for disarming the soldiers, which, I understood, was to be done by the persons who sent Fairley west. He spoke of some people in Edinburgh who would repent their conduct, and would be put up by the people who sent him. He spoke of collectors who were to head and command the people when they should rise. It was said there was to be a Convention, similar to the British Convention which met at Edinburgh. From the conversation I had with Fairley I gathered there was to be a rising of the people, and seizing of soldiers arms.

Robert Orrock, smith, said, he was a member of the Water of Leith Society, the Convention, &c. He first heard of arms in March, when in George Ross's house—There were present Watt, Mac Ewan, and Downie. The conversation took place about some speech in the newspaper about arms, and the Goldsmiths-Hall people had got some, and we should apply for some too. It was said we should not get them, to which Watt answered

swered—there was no law in Britain could prevent us.

Watt called on the witness, and wished to look at a weapon he had spoken of, and shewed him a draught of one, which he made, and carried to George Ross's house, and shewed it there to Watt, Downie, and others. Some days after, about the 1st of May, Watt called at the Dean, and desired him to make a few pikes with cross axes, and two or three dozens of different forms. He asked me how many I could make a week? I said fifty. He asked if I could get sticks? I said I might. Some time after Martin Todd called on me from Watt, and asked if I had made any of the instruments? He again called, and shewed me a large one, and desired I would make one like it—I said I would not. One William Brown afterwards called, and asked if I was making the pikes? I said I was; but he asked how we could get sticks, for there were thousands of them wanted. I then began to be alarmed, for William Brown made all his in secret. Watt afterwards desired me to say they were for the top of a gate.—At first I thought they were for the defence of the country. Mr. Watt ordered them, and Mr. Downie was to pay for them. I have heard of a Committee of Ways and Means, of which Watt was a member. In the Committee of Union there was a conversation about getting arms, and I made one for himself.

Martin Todd, smith, remembers going from
Watt

Watt to Orrock with a pike. Orrock returned it, and said he was going on with them as fast as possible.

William Brown, smith, said, William Robertson asked me to make some spears for a Mr. Watt, and when I told him I did not know but I might, he desired me to call on Watt, which I did, and he shewed me a spear, and asked if I would make some. Mr. Watt afterwards called at my shop, when I showed him one half done, and told him I did not chuse to make any more of that kind. He then ordered spears with sockets. I made fourteen and sent them to Watt's house, when he gave me a line to David Downie, who paid me the money.

John Fairley sent notice to the Court, that he wished to correct his former evidence. Being again called to the bar, said, he recollected Watt saying, that the Banks and the Public Offices were to be seized. Those most against us (the Aristocratics) were to be seized, and couriers to be sent to the country with the news. The magistrates of Edinburgh were also to be seized.

William Robertson, schoolmaster, Simon's-square.—Watt once asked me, if I knew any smith that could make spears. I mentioned Brown, to whom Watt gave me a message. I was a member of a society that met in my school. It increased much after the dispersion of the convention. Their object was universal suffrage and annual Parliaments. Have heard of a committee of
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of union. Was secretary to a general committee. Watt was at that committee when [a motion was made for a committee of emergency. Has heard of a committee of ways and means, and also that a person went to the north, and another to the west country. There was greater secrecy observed than formerly among the societies of the Friends of the People, at their meetings.

Walter Miller, merchant in Perth, said he knew a letter which was shewn him, to which he was desired to send an answer, addressed to George Ross, Liberty-court, which he did, and once sent 15l. to Mr. Downie, to relieve suffering patriots, and to support the cause of Reform.

William M'Ewan was again called into Court. He said he heard Mr. Stoke say he would do every thing in his power to open a correspondence between T. Hardy, the secretary to the London Corresponding Society and Watt.

Ques. from the Prisoner.—Did I wish more than any other member to carry on this correspondence with Hardy?—Ans. Yes, you did; and Stoke pointed out a plan to carry on your correspondence.

(Here the evidence for the Crown closed.)

Mr. William Erskine, Counsel for the prisoner, said that he meant to state as a defence for Mr. Watt, a correspondence which had passed between him and the right honourable Henry Dundas, Secretary of State, and the Lord Advocate of Scotland.

EXCULPATORY PROOF.

James Clerk, Esq. Sheriff-depute of the county of Edinburgh, said, When Watt was apprehended, he declined giving any answer to questions, until with the permission of the Lord Advocate and Mr. Secretary Dundas. He was again examined next day, when he was told the answer he gave was no answer as to the pikes—He said, at the second examination, that on his table an advertisement would be found for the sale of pikes, which he considered as an article of trade, and thought he could sell them cheaper than any other.

The Lord Advocate was then sworn—His Lordship said, that in October 1792, when Mr. Secretary Dundas came to Scotland, he had several conversations with him about the state of the societies in Scotland.—He then mentioned Mr. Watt's name, on account of a letter which Watt wrote him, offering his services to government; in consequence of which an enquiry was made concerning him. As he was thought faithful, he was trusted by those in power.—He gave several pieces of information, and sometimes came to his Lordship's house in George's square in the evening when dark.—One piece of information he gave was, that some soldiers, on their march from Chatham-Barracks to Perth, had on the road been tampered with by some persons and Societies of the Friends of the People; but, on a thorough
G investi-

investigation, the whole story turned out to be a falsehood.

His Lordship said, Watt had sent him a letter in March 1793, mentioning, that two persons, whom he had reason to believe possessed a good deal of knowledge with regard to certain plans forming by societies in Scotland, had told him they could give him a very important piece of intelligence; but this they would divulge to no one unless 1000l. was paid down. This letter, his Lordship said, he shewed to Mr. Dundas and Mr. Pitt, who agreed with him, that such a demand could not be complied with, and accordingly an answer to that purpose was sent to Mr. Watt; but that afterwards Watt informed his Lordship, that before the persons alluded to had spoken to him, they took him bound in a bill for 30l. which he had paid; this bill his Lordship ordered to be paid. He does not think he received any letter from Watt since July 1793, nor has seen him since October last.

(Here the whole Proof closed.)

Mr. Hamilton then addressed the Jury on the part of the prisoner. He stated the importance of the trial as requiring their most serious attention. It was a charge, he said, of the most heinous nature, accusing of the highest crime: It was a case of blood, in which they were to determine on the fate of this pannel. He observed, that by order of Court, the conducting of the pannel's

pannel's defence had been entrusted to him, and he now promised, as a man of honour, to do him all the service in his power. This he considered as a duty he owed to him, and a duty he owed to his own feelings. The crime, he said, was not a direct attack on the sacred person of his Majesty. If it had, I should not have brought my voice to rise in defence of the criminal.

Mr. Hamilton now entered upon an investigation of the law of treason, and, in a very masterly manner, went through a voluminous body of law authorities, to show its nature and distinctions.

He then went over the whole evidence, and combated it in its various parts in the most able manner. He took notice of the supposed attack on the Castle as an irrational and extravagantly foolish idea. Of the pikes found, he remarked, that the smallness of the number was sufficient to prove, they could not be intended to be used in any serious attack against this country ; besides only seven persons were belonging to this committee who are said to have known of them. Could seven persons use forty-seven pikes ? Could forty-seven pikes take the Castle, massacre the soldiers, seize the Judges, and overcome the government ? Upon every topic of the evidence, he descanted with great ability, and particularly alluded to the pannel's correspondence with those in power, saying, that was in order to follow out his plan of obtaining information, that he had done what was charged against him. His case was

similar to that of a spy in an enemy's camp or army, where it was not only necessary he should wear their uniform, but also carry arms against the power he meant to serve. Yet, could it be said, that if such a person is taken by that power who employed him as a spy, that he should suffer for being taken under such circumstances? He argued that it was probable the prisoner meant to have given intimation to Mr. Dundas, of any of these plans that might be forming, so soon as he found it a proper time to do so. He observed, that it was most unquestionably necessary, that government should have proper persons to give them intimation of any improper schemes going on ; but, what person will be found so hardy in future, if this man shall fall in the cause.

After many most ingenious remarks, he concluded by saying, That, if the cup of this man's iniquity be full, the dregs are bitter, yet he must drink them ; but if otherwise, and he shall yet meet with a deliverance, then it falls to you, gentlemen of the jury, to dash the cup from his trembling lip, that he may not taste its bitters.

The Lord Advocate then rose to reply ; and said, that as the trial had branched out so long, he should be as concise as the nature and importance of the case required. His Lordship observed, that although the learned gentleman who had preceded him said, that no allusions to the state of affairs in another country, ought to be mentioned on this occasion, yet, as the similarity
of

of the plans adopted by the discontented in this country so nearly resembled that which was so unhappily pursued there, he thought it his duty to say, that what had appeared in evidence this day, fully justified him in saying, that there was but too much truth in it. His Lordship argued at great length, and with much ability, on the laws of Treason, particularly the Statute of Edw. III. and adduced the opinion of many able English Lawyers in support of his construction of that Statute. He was clearly of opinion, that the crime laid in the indictment, whatever constructions his learned brother (M. Hamilton) might give it, was clearly that species of treason, of compassing and imagining the death of the King.

He then proceeded to sum up the evidence in support of the charge; which he demonstrated to be clearly and substantially proved; yet, if the Jury were not of his opinion, he should be happy at the acquittal of the prisoner—as the Jury were the judges of that, not he; and if that was the case, none would more rejoice at such an event than himself, though, from the complexion of the evidence, there was little hopes of that being the case. His Lordship then stated to the Jury the nature of the evidence, beginning with Hardy's correspondence with Skirving. He then proceeded to state the proceedings of the British Convention till its dispersion, which was proved by Ross, Aitchison, and others—the proceedings of the London Corresponding Society at the
Globe

Globe Tavern and Chalk Farm, which was proved by Messrs. Taylor and Gosling. He then said, he had proved the accession of Watt to the schemes of the Friends of the People, by his being a member of both the Committees of Union and Ways and Means, and that he was a principal ringleader of these Committees—that he had proposed the plan for the taking of the Castle of Edinburgh, securing the persons of the Judges, Lord Provost, &c.—the taking possession of the Banks and Excise Office, and the attacking and disarming the soldiers. That, at an after meeting of the committee, he had read an address to the people in form of a proclamation: That he had dispatched Fairley to the West Country, to see how the minds of the people stood affected: That he had employed Orrock and Brown to make pikes, which were afterwards found by Mr. Lockhart and Middleton in Watt's house. That the types of a seditious hand bill were likewise found in Watt's house, which was circulated among the fencibles at Dalkeith--and that, upon the whole, the indictment with respect to the prisoner was clearly proved by the concurring testimony of almost all the witnesses adduced for the Crown. With regard to the defence set up for the prisoner, that he had gone into all those schemes merely that he might inform government what was going on among the Friends of the People, he said this was highly absurd and im-

improbable; for although for some considerable time he and Mr. Watt had been acquainted, and Mr. Watt had communicated various pieces of information to him, yet, from the end of last year, he had joined the Friends of the People, and become an active partizan among them, without acquainting him or any servant of the Crown, of the alteration of his conduct. This defence, therefore, could avail him nothing, as before he joined the Friends of the People he had entirely withdrawn himself from giving information to the government. He thought, therefore, the Jury could do no less than find the prisoner guilty.

The right honourable the Lord President then charged the Jury, both with regard to the law and the fact, with the greatest candour and precision.

The Jury were then attended by two constables, to be enclosed. However, they remained out of court only a few minutes, when they returned.

Clerk of Arraignment said, Gentlemen, Have you agreed on your verdict?---Foreman. Yes.

Clerk of Arraignment. Foreman of this Jury, is the prisoner at the bar, Robert Watt, guilty of the crime charged against him?---Foreman. He is GUILTY.

The prisoner was immediately taken from the bar, and the court adjourned till to-morrow (Friday morning) at eight o'clock.

Counsel

Counsel for the crown--The Lord Advocate;
Solicitor General, Mr. Anstruther, Mr. Dundas;
Mr. Knapp, Clerk of Arraigs; Mr. Warrender,
Agent.

Counsel for the Prisoner---Mr. William Er-
skine, Mr. Rob. Hamilton: Mr. Ritchie,
Agent.

A List of the Jury who tried **ROBERT WATT**;
for High Treason :---September 3, 1794

David Clark, Bristow-street,
William Hunter, Grocer, Edinburgh,
James Mitchell, Merchant in Leith,
John Scougal, Merchant in Leith,
William Sibbald, Merchant in Leith,
John Horner, Merchant in Edinburgh,
Thomas Hutchinson, Merchant in Edinburgh,
Archibald Campbell, Brewer in Edinburgh,
George Kinnier, Banker in Edinburgh,
William Fraser, Tinsmith in Edinburgh,
John Andrews, Grocer in Edinburgh,
William Lamb, Upholsterer in Edinburgh.

EDINBURGH.

#

COURT OF OYER AND TERMINER.

Sep. 5, 1794.

TRIAL.

OF

DAVID DOWNIE.

AT eight o'clock in the morning, the following judges were present, viz.

The LORD PRESIDENT,
LORD CHIEF BARON,
BARON NORTON,

LORD ESKGROVE,
LORD SWINTON,
LORD DUNSINNAN.

The Prisoner being put to the Bar Mr. *Knapp* Clerke of the Arains, addressed him as follows,

“The good men now to pass between you and the King, and now to be called, you may challenge when they are named, but not after they are sworn. Mr. *Knapp* then nominated several gentlemen, to twenty-six of whom the prisoner objected, and they were set aside, and others called. Each juryman, when not objected to by the prisoner, was sworn in.”

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Lift

List of Mr. Downie's Jury.

Robert Young, Upholsterer.
William Frazer, Tin Smith.
William Fettes, Merchant.
James Lindsay, Wine Merchant.
James Hamilton, Upholsterer.
Alexander Ponton, Sworn Measurer.
David Deuchar, Seal Engraver.
Charles Robertson, Painter.
George Roe, Candle Maker.
John Bonnar, Painter.
David Milne, Merchant.
John Black, Merchant.

Mr. *Knapp* then read to the prisoner a brief statement of his Indictment, which was to the same effect as those charges against Watt.

Mr. *Dundas* rose, and opened the pleadings on the part of the prosecution.

“ *Gentlemen of the Jury,*

“ The prisoner is charged with endeavouring to bring about, or assembling a Convention, similar in its views with the one which some time ago met in this City, called the British Convention. He is also accused of procuring, or causing to be made, arms, or offensive weapons, in order to levy war against the King, with a determination to resist his royal authority, and compel him to comply with certain measures, to dismiss his ministers, dissolve the parliament, and put an end to the war. Another charge is, that he endeavoured to seduce the soldiers from their duty and allegiance; and that shortly, he has taken such measures as make him accused of compassing and imagining the death of the King.—These particulars

particulars will be more fully stated by the Counsel who is now to address you."

The Lord Advocate then rose, and said—

" Gentlemen of the Jury,

" This is an Indictment for High Treason, and my duty is to state to you the law upon that subject, and the general nature and import of the facts which, on the part of the Crown and the public, I mean to bring evidence to support. It is your duty, Gentlemen, to consider the whole evidence, and from thence form what your judgment shall be.

" Gentlemen, it must be well known to you, that at the Union of the two Kingdoms, the system of the treason law of this country suffered an alteration, founded on the best grounds of expediency; and since that period, the treason law of England had been adopted in this country. Had the Scots treason law still remained here, those men who are now suffering the punishment of their crimes in a distant country, would have suffered a capital punishment. To the honour of the treason law of England, it has remained since Edward III. the same down to this day, and has been the foundation of all the trials for treason that have taken place since; and it has met the applause of our most celebrated lawyers, and best historians, and the people have lived happy under it:—for, while it guards and protects the life of his Majesty, it is equally careful of the life of the subject, being a barrier against any overstretched power.

" It includes three distinct cases of treason: 1st, Compassing and imagining the death of

the King :—2d, Levying war against the King :—3d, Adhering to his enemies.—The first, viz. compassing and imagining the death of the King, falls to be, in this case, the most material. The second also comes under your consideration ; for, endeavouring to levy war, even although it is not actually levied, falls under the first head, that of compassing and imagining the death of the King. Since the Union, we have had two rebellions in this country ; but by special Statute, the persons who were brought to trial for their concern in them, were tried in the Sister Kingdom. We are the first in this kingdom who have had the melancholy duty to perform—that of applying it upon the present occasion.

“ Recent occurrences have shown us the conspiracy that has been formed to seduce the people from their allegiance, under the specious pretence of Reform, but really with the purpose of destroying the lawful authorities of the country, and the fair fabric of our Constitution.

“ The Act of Parliament, of which I am now to speak, needs no explanation ; yet, for your satisfaction, I will state, not in my own words, but in the words of the most celebrated English lawyers, their opinion concerning it.—Here his Lordship went through a great number of law authorities, Judge Foster, Hawkins, and Blackstone. One of these, he remarked, said, with regard to compassing the death of the King, “ that the will must be taken for the deed.”—The King is the head of the body politic, and members are connected under him ; and his life cannot be taken away

away but it must involve the Nation in blood. If conspirators meet, and consult to take away the life of the King, every person who has a previous knowledge, and attends such consultation, if he does not give information, falls to be presented to a Jury.—The law does not confine the crime to a direct attack, but to every attempt at compassing the death of the King, or seizing his person; for experience has shown, that, between the person and the grave of Princes, the distance is very small. Every attempt even to seize his person is considered compassing his death: for, the purpose cannot be effected, without manifest danger to his person.

Gentlemen, you all well know, that about two years ago a number of persons formed clubs and societies, to obtain, as they said, Parliamentary Reform; but whatever was their pretence, their real scheme was to subvert the Constitution, and introduce universal suffrage and annual Parliaments in place of that happy system under which we so securely live. They accordingly applied to Parliament by petition, but Parliament, to its immortal honour, discovered what was couched under it, and rejected their application. Being thus disappointed, some of these clubs immediately set about other means; for, in a letter in 1792, from Hardy to Skirving, he says, “ Our petition has been rejected, therefore we must “ take some more effectual means.” We have seen a British Convention in this country, assuming to itself very high powers indeed, and even going the length to say, they would watch the motions of Parliament, in case they

dared to pass certain acts, and declaring their determination to resist till compelled to desist by superior force; and that upon the first intimation given to introduce a certain act of Parliament, then were they to call a Convention of Emergency, and erect the standard of rebellion against the legal constituted authorities of this kingdom.

To the honour of the Chief Magistrate of this city, whose conduct upon that as upon every other occasion, has procured him the esteem of every good citizen, he went and dispersed this Convention. Prosecutions were afterwards brought against the ringleaders in these transactions, and they suffered the just punishment which their crimes merited.—I will prove said his Lordship, that the prisoner was a member of this Convention.

Mr. Downie—My *Lord President*, I object to the Lord Advocate stating this to the Jury; for I was formerly a witness in one of these trials, and was told by the Court, that I never could be charged for my conduct in these matters.

The *Lord President* said, the Lord Advocate was not to charge him with any crime committed previous to that trial, but only what was done since.

The *Lord Advocate* proceeded. “ I must show his connection with that Convention to prove his views the same in the one which was proposed to be held. His Lordship next proceed to shew that the was a member of the different Committees of Union and Ways and Means, of acting as Treasurer, and collecting and paying money to promote the Grand Cause,

as it was termed. That these Committees had corresponded with a society in London, who voted the most calumnious resolutions against the Judges of this country.

“ His Lordship then stated his intention to prove the prisoner guilty of endeavouring to seduce the military from their duty and allegiance, by the distribution of a hand-bill among the Fencibles at Dalkeith, entitled, “ An Address to the Fencibles.” That he was accessory to the plan read by Watt for taking the Castle, seizing the Judges, Magistrates, &c. and to the embassy which was sent to the west country, for founding the dispositions of the people: that in his capacity of Treasurer to the Committee of Ways and means, he paid the smiths who were employed by Watt to make the pikes: that he acceded to the plan of having Collectors appointed, who were to collect the sentiments of the people, and receive money from them, and likewise to act as Commander when they were armed.

“ His Lordship with great ability expatiated on each of these charges, and concluded with observing, that if he could prove them to the satisfaction of the Jury, they doubtless would consider the charge of High Treason as fully proved. The principle, however, his Lordship observed, the Jury should ever keep in their eye—the impartial distribution of justice.”

EVIDENCE FOR THE CROWN.

Mr. Scott, Procurator Fiscal, indentified papers.

Mr.

Mr. Cullen, for the prisoner, stated, that he would object to any evidence to be produced against the prisoner prior to the time he was examined in a late case, concerning the members of the Convention; for then the Court informed him, that he never could be called in question for his connection in that affair.

Mr. Anstruther said, he did not mean to adduce evidence against the prisoner for procuring a Convention that had met, but, for endeavouring to procure one to meet at a future period; and the Counsel for the prisoner will find that concerning the evidence they object to, no such count is in the indictment.

Mr. Taylor, London, stated, that a number of Committees were formed in London, and a large meeting held at the Globe Tavern, where they came to sundry resolutions: as also at Chalk Farm in April. The London Society intended to meet at Shore-street, but were prevented by the Magistrates.

Cross-examined.—Q. How do you amuse yourself?—Ans. Various ways.

Q. Do you attend any Societies for your amusement?—A. I did.

Q. Was you ever employed to give information?—A. No.

Q. Did you take notes?—A. Yes.

Q. Have you them?—A. Yes.

Counsel. Produce them, and read part.

(The witness did so.)

Counsel. In what you have now read, it begins John Martin by the appellation of "Citizen Martin, Rose," &c. Now, how came you to particularise this denomination, when
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all the Members were spoke to by a similiar one.—A. It was a singular style.

Q. Did you take these notes for any other purpose than your own information?

A. For no other purpose.

Q. Did you ever show them to any other person?

A. Never till I was carried before the Privy Council.

Mr. *Lauszane*, King's messenger, indentified some papers he found in Hardy's house, when he took him into custody.

Alexander Aitcheson, late goldsmith, pointed out several parts of the minutes of Convention, which he wrote as assistant Secretary.

Q. Was D. Downie a member of the Convention?

Pannel's Counsel. I again object to such question. If the Counsel for the Crown wish to prove that he followed measures similiar to those of the British Convention, they may prove the measures of that society to have been as bad as imagination can conceive, but they must not attempt to prove that he was a member, or at all concerned with it.

Counsel for the Crown. I most certainly intend to prove that he had similiar views; and in order to shew that he knew the intentions of the British Convention, it is the best mode to shew that he was a member of it.

The Court put the question thus, without saying whether David Downie was a member of the Convention, say whether he knows that David Downie had access to know their views?

A. He had.

The witness identified a paper which he had written in the Committee of Union.

George Ross said, a Committee of Union met in his house in March last, and other times. Downie, Watt, Bonthorn, and Stoke, belonged to it. There was also another Committee of a greater number. He received from Stoke a printed letter, and understood similar letters were to be sent to the country. He sent some, &c. to Paisley, Strahaven, Perth—on these he wrote, "Show this to your friends, and send an answer to George Ross, Liberty Court, Edinburgh."

William McCubbin, writer, was elected a member of the Committee of Union, in consequence of an acquaintance of his, who was a member, being bound over to keep the peace for being in the Play-House-Riots. Downie was a member. The purpose of the Committee was to co-operate in calling a Convention similar to the British Convention. There was a Committee of Collectors to collect money to pay delegates, and relieve those who were suffering for political opinions; likewise for collecting the sense of the people. The witness was a collector; Mr. Downie was Treasurer to the whole; Fairley was a collector, and was appointed convener, and to act always as such. The witness was a member of the Convention when the Lord Provost dispersed it, and he stated the particulars of what happened at that time. The Committee of Union was to have met the night Downie and Watt were apprehended, but on that account did not.

Prisoner.

Prisoner. Was it not proposed to establish a library of books?

Ans. Thinks he heard it mentioned in some societies, but not positive.

William Binning said, he was was a member of Water of Leith Society. They met three weeks after the dispersing of the British Convention. They sent three delegates to the Committee of Union, viz. Orrock, Farquharson, and M'Ewan. It was for the purpose of Reform. There was a collector to take the sense of the people, and money to support Mr. Skirving. This society gave their money to M'Ewan to pay to the delegates, or Mrs. Skirving. Mr. Downie was Treasurer to the collectors.

Arthur M'Ewan was a member of the Water of Leith Society, which continued to meet after the dispersion of the Convention, Was a member of the Committee of Union, which met in Ross's. There was a Subcommittee chosen from it, consisting of seven persons. Downie was one of them. It was afterwards called the Committee of Ways and Means. They were to pay some debt the Convention owed Skirving, and support his widow. Heard Watt one night read a paper proposing to seize Lord Chief Justice Clerk, &c. [Here the witness gave the same account of this paper as he did in the trial of Robert Watt.] He once saw Downie in Ross's house with Fairley, Watt, &c. Fairley had come from the West Country. Saw Fairley lay down 15s. on the table, which he said he had left, and Downie desired him to take it up again. Fairley said Paisley was in a state

a state of great readiness ; this he thought was for carrying forward Watt's plan. Watt said he had 4000 arms to send to Perth. Downie called on the witness at his own house the day Watt was apprehended, and asked, if he, the witness, had been before the Sheriff, and what questions had been put to him. He then said, that if he was called upon, he would say he did not know me, and if I was called upon, he told me to say I did not know him. Heard William Brown once say he was employed by Watt, and paid by Downie. Heard Downie say, a very spirited letter had been received from Perth.

Quest. Did the prisoner, when you was going home with him, the night Watt had read his plan in the Committee, say he disapproved of it?

Ans. Don't recollect.

William Bonthorn, teacher, was a member of a society at Broughton, which sent him as a delegate to the Committee of Union, and has seen Downie there. Another Committee was chosen from the Committee of Union, called the Sub-Committee, viz. Aitchison, Burke, Stoke, M'Ewan, Watt, Downie, and himself, sometimes called the Committee of Ways and Means. Saw in the Committee a paper called *Regulations*. Two-pence were collected from each member, to defray expence. Downie acted as Treasurer. Collectors were appointed to collect money to send a delegate to England, to attend a Convention to be formed there. He left this Committee, because he saw matters coming to a very great length, and also for another reason,

reason relating to the peace of his own family. He thought they were going great lengths, from hearing a paper read by Watt, when Downie was present ; to which paper M'Ewan objected, as did, the witness, by saying, " No, no ; by no means." [Here he gave the same account of the paper as in Watt's trial.] The Committee met in Watt's house to answer T. Hardy's letter, which Mr. Stoke was to carry with him. After this night the witness determined to advertise his withdrawing from the Committee. This he did not advertise. He shortly after wrote a letter to Mr. Watt, to desire Downie to advance Fairley a few shillings, as he was going to the country, as he understood, upon the Committee business. He took a copy of a paper which he saw in the Committee of Union, and read it in Broughton Society. The collectors were appointed to numbers, not to districts. Saw a paper about Fencibles in the Committee. He considered the paper read by Watt as a sort of frenzy. Mr. Stoke and Mr. Watt wrote any papers the Committee had to write. Mr. Downie received all the money, and paid it out.

Mr. Gardner, jeweller, being shewn two letters, said, one of them was like Mr. Downie's writing, and the postscript of the other.

Mr. Mathie, jeweller, being shewn two letters, thought one like Mr. Downie's writing, the other not.

Mr. Hunter, clerk in the bank of Scotland. Shewn a bill of 15l. dated April 7, " Pay to Walter Miller, Perth." Indorsed, " Pay to David Downie," and " Received
" pay-

" payment, David Downie," which he identified.

A letter was now read, signed " David Downie," acknowledging the receipt of this, and giving an account of the riots in the play-house.

Mr William Lockhart gave the same account of searching Watts's house, and finding pikes, which he gave in Mr. Watt's trial.

William Middleton stated, that he was present when when pikes were found in Watt's house, and also got some in Orrock's house at the Dean.

Margaret White, servant to Mr. Downie, said, she has seen a pike in Mr. Downie's dining-room. His son came out of the next room where his bed-room was, and took it away. Soon after, Mrs. Downie asked Mr. Downie what his son had done with the *Dividing Knife* ! This was one morning about six o'clock, before Whitsunday ; and when she saw it, she thought she never saw such a dividing knife before.

Robert Corrock, smith, said he knew of a Committee of Union, and was a member of it, and Mr. Downie was one. At one meeting of the Society, they read a newspaper, and there was something in it about an invasion. Watt said, there were arms come down to the Goldsmiths-hall people, and somebody said we had better apply for them there. Some other person said we could not get them. Watt answered there was no law could hinder us. I said I would make one for myself. Some time after, Watt called at my shop,
and

and asked if I had made the weapon. I said I had not, but told him what like it was. It did not please him, and he marked on the table the form of one he wanted. I made it and carried it to Ross's house; Watt, Downie, and some others, were present---One said it was too short in the *curve*, and then made the shape of one longer; on which Watt and Downie desired me *to keep that in my eye*. Watt and Downie ordered me to make a few dozens of the same kind.

William Brown said he made 15 pikes by Watt's order, to whom he delivered them, and he gave a line to Downie, who paid him 22s. 6d. for the 15 pikes---the one kind was 1s. 3d. each, the other kind 5s. each. The line to Downie said, "Pay to Mr. Brown 22s. 6d. and I will count with you after."

William Watson, Dalkeith, gave the same account of receiving 20 copies of an Address to the Fencibles as he did on the trial of Watt, and added, that he gave one to Elliot and one to Johnston. Some persons said they would be hurtful, and then he destroyed them.

William Johnston, Dalkeith, said he got a paper from Watson, which he gave to Sandilands when some soldiers were there.

James Sandilands, Dalkeith, got a bill from Johnston, and gave it to Serjeant Hardy.

Serjeant Hardy said, he received a paper from Sandilands, and desired him to read it. The regiment was then going to England.

Coporal O'Connell said, when in Dalkeith, a person came to him, and said, you are all sold to go abroad---you had better not go. Here
is

is a paper will shew you. The witness would not take it, but saw on it the word *Dundee*.

Archibald M'Feadzan, soldier, said, he got a paper in Dalkeith from a man. He heard it read---it was signed *Dundee*, and said, if he went to England we were all sold to go abroad---if we staid at home we would get thousands to help us.

John Geddes said, he saw a man giving away papers in Dalkeith to the soldiers. He read it---it said, "Stay at home! O dear brothers, stay at home!"

John Fairly, wright.---Q. Do you know George Ross? --- A. Yes; he lives in the Cowgate; and there is an entry to his house from the South Bridge.

Q. Do you know of any Committee, or was you not a member of some society?---

A. A Committee sometimes met at Ross's, where I have been; I was a member of the British Convention and Broughton society, who appointed some members to meet with the other societies, and chose me Collector.

Q. Did you any business for that Committee?

A. I was twice or thrice with them; some of the Collectors wanted me to get them some subscription papers, which I did, and went again another night, telling them I had got them.

Q. Did they employ you in any other business?

A. I once had occasion to go to the west country, to see my sister, who resides at Airth, and Bonthron gave me a letter to Watt. Watt gave me another letter to Downie, and told me

me I would find a parcel at Campbell's, containing some papers, &c. with directions how to act. On carrying Watt's letter to Downie, I got 3cs. from him. On calling at Campbell's I got the parcel, which contained instructions, my commission, which was marked with seals, some circular letters, &c. with orders to correspond with Downie, and to tell the different societies to do so likewise.

Q. Was there no plan in the parcel among the other papers, &c.

A. I believe there was.

Q. What was the purport of that plan, or what do you call it; was it a little plan, a great plan, or a grand plan?

A. It was the plan that Watt mentioned.

Q. Had you no conversation with the Committee about that plan?

A. No, I had none either with Downie or Stock; but Watt conversed with them about it.

Q. On whom did you call at Stirling?

A. I called on Dr. Forrest, with whom I saw a Mr. Thompson.

Q. Why did you call on him? Was you acquainted with him before?

A. No, I was not; but had heard in Edinburgh that he was friend to freedom.

Q. What was the subject of your conversation with him?

A. I told him the news in Edinburgh, and he told me the news in Stirling.

Q. Did you not show him your papers, and tell him something about making pikes at Edinburgh?

A. Yes, I did in the presence of Mr.
D Thompson

Thompson, and others that were there, and drew a pike on the table; saying, Watt told me they were for self-defence.

Q. What said they was the news at Stirling?

A. They told me their societies were not numerous—were willing to assist us about Edinburgh with money, but could not in any thing else.

Q. What did you understand from these words, *nothing else*?

A. I only understood from these words that the Societies were not numerous.

Q. Did they seem happy when you told them of making pikes at Edinburgh?

A. They seemed neither happy nor sorry at it.

Q. Where went you from Stirling, and whom did you call at next?

A. I went to St. Ninian's and called on a Mr. M'Cross, a relief minister, and a Mr. Brown, a writer.

Q. Where next?

A. To Kilfyth, and called on Mr. Anderson, a minister, and a Mr. Yule.

Q. You was at Glasgow; whom did you call on there?

A. I called on a Mr. Sinclair there; he was not in when I called first.

Q. Where went you on missing Sinclair?

A. I went to the reading-room.

Q. What sort of a place is this reading-room?

A. A house where pamphlets and newspapers are read.

Q. Did

Q. Did you know any of the persons you saw in the reading-room?

A. I did not.

Q. You was at other places before Glasgow?

A. I went to Kirkintilloch and Campsie, and gave my instructions to the Friends in all the places I visited.

Q. Where went you on leaving Glasgow?

A. To Paisley, and called on Mr. Hastie there; after which I came home to Edinburgh.

Q. Where went you first on your arrival in Edinburgh?

A. I went to my father's, then to the Committee at Ross's.

Q. Who found you there, and what conversation passed?

A. I found Watt, Downie, and M'Ewan there, and told them that the Friends were in general hearty.

Q. Did you return your instructions and commission to the Committee?

A. They were to be returned to the clerk of the Committee, but I returned them to Watt. I do not know whether the Committee knew what they contained.

Here Mr. *John Clerk*, one of the Counsel for the pannel, stood up, and begged the Jury to attend to what the witness had said, viz. that he had returned his instructions and commission to Watt, and was uncertain whether the Committee knew what directions they contained.

Q. Did you pay your own expences on the road?

A. No; I got 30s. from Downie; spent

15s. and on returning the other 15s. they gave it me back.

Q. When you went to Airth to see your sister, did you usually take a round-about jaunt?—A. No, I did not.

Q. Why did you not carry pikes to the collectors when Watt desired you?

A. I did not like to do that; I was afraid of being blamed for distributing them.

Q. What passed between you and the Committee on your return?

A. I gave Watt a list of persons, and their places of residence, that might be in future corresponded with.

Q. Did you not inform the Committee of what you had done in your journey?

A. No, I was uncertain whether they knew any thing of my instructions—as I got them through Watt, I returned them again to him.

When the evidence was closed,

Mr. *Cullen* then rose to charge the Jury on the part of the prisoner, which he did in an ingenious and argumentative speech, which lasted upwards of three hours. He began with laying down the law of the case, in which he differed very much from the Counsel on the other side. He read several quotations, from which he drew this general inference, that although the indictment charged the prisoner with compassing and imagining the death of the King, no such crime had been committed—for the highest part of the crime charged, even allowing it to be true, was no more than a sort of *Constructive Treason*, which the law was very cautious in med-

meddling with. He then proceeded to comment upon the evidence, the first part of which, he said, proved nothing of the charge of treason; it only went to this, that the prisoner, along with a number of other persons, some in a high and some in a low situation of life, had been active and zealous to procure a reform in the representation of this country. —If the prisoner carried his notions in this business only so far as some other members of the British Convention had done, he ought to have been tried for sedition, which very probably might have been found a good charge against him; but there was no reason to presume, from all this, that his being concerned in the cause of Reform, implicated him in the charge of high treason, which, he was sure, a candid view of the evidence would not make out.

Mr. Cullen next mentioned, that part of the evidence which regarded the taking of the castle of Edinburgh; massacring the soldiers; seizing the judges, &c. which, said he, was one of the wildest phrenzies that ever entered into the head of man. This was not the plan of the prisoner, but of Watt; he alone was the former and promoter of that diabolical business; but, he remarked, it is here attempted to be proved, that the prisoner and Watt were equally guilty in this matter—this was by no means the case; for, though the prisoner was a member of the British Convention, and afterwards of the Committees of Union and Ways and Means, yet the intention of these Committees was not to promote the treasonable plans and projects of Mr. Watt,

Watt, but only to collect money for the purpose of carrying their plan of reform into effect, and for succouring some of their suffering friends. It had been attempted to be proved, that the prisoner had both employed and paid for making pikes; but the employment was not so completely proved as the law directs, and as to the money paid to William Brown, it was entirely on Watt's account. With regard to the evidence of Fairley, to whom likewise the prisoner paid money; he certainly did so, on account of the Committee of Ways and Means; not to promote the plans of Watt, but merely to see how the Friends of the People in the country stood affected with regard to pursuing the plan of Reform: if he went farther, it was in consequence of a private understanding between him and Watt, which the prisoner knew nothing of. The rest of the evidence Mr. Cullen argued in a strain of very ingenious reasoning, amounting to nothing that could, in the most distant manner, affect the prisoner, and, on these grounds, he hoped, that the Jury would be of opinion with him, that the charge had not been sufficiently proved, and would, therefore, acquit the prisoner.

Mr. Cullen pleaded the cause of his unfortunate client with a zeal and ability that did him great honour.

Mr. *Anstruther*, on the part of the crown, replied. He said he was exceedingly sorry to say, that from his opinion of the evidence produced, the charge was completely proved against the prisoner. He then took a pretty extensive view of the Law of Treason, in which
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he differed very much from Mr. Cullen: he said, it was by no means the case of *Constructive Treason*, but a deliberate plan to overturn the Government and Constitution of this country, and therefore came fairly under that part of the statute of Edward III. of compassing and imagining the death of the King. He next proceeded to the evidence produced, beginning at the first motion of a design to call a second Convention, which design, he said, was clearly and distinctly proved. The next part of the evidence was the prisoner's conduct as a member of the committees of Union and Ways and Means, whose views Mr. Cullen said were solely to promote the cause of reform; but he differed very much from him with regard to this. Mr. Anstruther said; for taking the correspondence of Hardy and Skirving; the proceedings of the British Convention; the meetings held at the Globe Tavern, and Chalk Farm, upon the principles held out by themselves, and upon whose resolutions those committees acted, what was their language? Was it to petition the King, or petition Parliament?---No! it was, as all their proceedings bear, to do something stronger than to petition---It was to effect their purpose by *force*, which they said petitioning had not been able to do. There could be no doubt this was treasonable, and the evidence fully justified him in saying, the prisoner had acceded to every particular. He next adverted to the plan of taking the Castle of Edinburgh, &c. which plan no doubt was Watt's --- but the prisoner did not dissent from that plan, as Mac Ewan and Bonthorn had done, nor absent

sent himself from the meetings of the committees ; but, on the contrary, he along with Watt employed Orrock to make the pikes--- paid money to Brown for making them --- to Fairley to enable him to go to the West country upon their business. In short, the prisoner completely acceded to every part of Watt's plan ; and besides all this, the evidence fully proved, that a pike was found in the prisoner's house, and that he was concerned in circulating the seditious hand-bill, tending to debauch the minds of the Fencibles of this country ; a copy of which hand-bill was clearly traced to the prisoner. Mr. Anstruther now took notice of the great pains that had been taken by some evil-minded people to seduce the lower ranks in this country from their duty and allegiance ; and respecting this he gave an elegant quotation from the Roman Historian Livy, the purport of which was, that when the lower orders of the people rose against the Constituent Authority of a country, the consequence was, that nothing but anarchy and confusion ensued, and that country was completely wretched. He concluded with saying, that no doubt remained in his mind, that the charge was completely proved ; if, however, the Jury thought otherwise, he would be happy at the acquittal of the prisoner.

Mr. Anstruther spoke an hour and fifty minutes, in a cool, deliberate, and elegant manner, and was listened to with the greatest attention by all present in court.

The Lord President then proceeded to charge the Jury. He began with saying, that at a future period it would no doubt surprise posterity

posterity to hear, that in this enlightened age, crimes such as that charged on the prisoner, could be committed. This country was not now what it had been some hundred years ago, when civil liberty was ill understood, when agriculture and commerce were not attended to, and when the nobles and heads of clans usurped a despotic power over their vassals and dependants. Then nothing was heard but family broils, and endless quarrels for power and plunder.---Happily, things were now changed for the better---the power of the nobles was restricted, commerce, agriculture, and arts flourished, and the people, from idleness and poverty, were rich and industrious. Was it not astonishing then, said his Lordship, that a period when the country was so prosperous, discontents should arise from causes, of which our forefathers had never thought or heard; doctrines should be broached, which, if acted upon, would completely subvert all order in society, and plunge this country into all the misery and wretchedness which so unhappily prevailed in a neighbouring nation.

To illustrate this, his lordship read an extract from a speech delivered in the Irish parliament, and a quotation from an eminent author, who tells the following story:—Suppose, says the author, a ship went to sea completely manned; the crew acting upon these new principles say, Why is this man captain? Why is this man at the helm? Are we not his equals, and are not our abilities equally good with the person at the helm?—From words they proceed to actions, and deprive the officers of their command; they then

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elect

elect others to succeed them from among themselves, throw off all restraint, get drunk, and in consequence of this the vessel drives among rocks, is lost, and every person on board perishes. Such, said his Lordship, must be the case if ignorant men, who will not obey the wholesome restraints of Law, were to assume to themselves the Legislative and Executive Power of a Country.

His Lordship next proceeded to give a clear and distinct view of the Laws of Treason, in particular that statute upon which the indictment was laid. He said, that it was a happy thing for this country, that at the Union the Treason Laws of both countries were made one, as it prevented all uncertainty about them; the Treason Laws being as well understood as any part of the criminal jurisprudence of this kingdom.

His Lordship then commented upon the different parts of the evidence, pointing out with great precision and candour what was for, and what was against, the prisoner, leaving the whole with the Jury. If they found there was not proof sufficient to convict the prisoner, or if there was even a doubt in their minds of his guilt, they ought to acquit him, as mercy should always lean to the side of the prisoner; but if on the contrary, they were satisfied of his guilt, then they were to bring in their verdict accordingly.

His Lordship spoke above an hour, in his usual able and candid manner.

The Jury were then attended by two constables, to be enclosed. They remained out of court about forty minutes, when they returned.

Clerk